
HOUSE BILL No. 1530

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-157; IC 13-15-4.

Synopsis: Environmental permit renewals. Allows an applicant for a permit issued by the department of environmental management who is operating under a continuation of an existing permit pending determination of an application for a new or renewed permit to: (1) submit to the department a draft permit; or (2) hire an outside consultant to prepare a draft permit. Allows the applicant to submit the draft permit or hire an outside consultant to prepare the draft permit if the applicant has: (1) reached an agreement with the commissioner of the department; or (2) consulted with the commissioner for at least 30 days and failed to reach an agreement. Requires the commissioner to approve or deny draft permits within specified periods. Prohibits an applicant from receiving a refund of a permit application fee if the permit application concerned the renewal of a permit.

Effective: Upon passage.

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January 16, 2003, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1530

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-157 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 157. (a) "Permit",
3 for purposes of IC 13-15-4, means:

- 4 (1) a permit;
5 (2) a license;
6 (3) a registration;
7 (4) a certificate; or
8 (5) other type of authorization required before construction or
9 operation;

10 that may be issued by the commissioner under pollution control laws
11 or environmental management laws.

12 (b) As used in IC 13-15-4-11 through IC 13-15-4-17 and
13 **IC 13-15-4-20**, the term includes:

- 14 (1) a permit; or
15 (2) a determination related to a permit;
16 that is described in IC 13-15-4-1.

17 SECTION 2. IC 13-15-4-11, AS AMENDED BY P.L.184-2002,



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SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) If an applicant is operating pursuant to a continuation of an existing permit pending determination of an application for a new or renewed permit under IC 13-15-3-6, the applicant may proceed under this section after notifying the commissioner in writing of its intent to do so.

(b) If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. **Except as provided in section 12.1 of this chapter**, after reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) request and receive a refund of a permit application fee paid by the applicant; and

(ii) submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:

(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft

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permit in accordance with section 16 of this chapter.

SECTION 3. IC 13-15-4-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.1. An applicant may not receive a refund of a permit application fee if the permit application concerned the renewal of a permit.**

SECTION 4. IC 13-15-4-14, AS AMENDED BY P.L.184-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Except for applicants proceeding under section ~~11(a)~~ **20** of this chapter, an applicant may not proceed under any of the options described in section ~~11(b)~~ **11** of this chapter if construction or operation of the equipment or facility described in the permit application has already begun, unless construction or operation before obtaining the permit is authorized by a board rule or state statute.

SECTION 5. IC 13-15-4-15, AS AMENDED BY P.L.184-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If an applicant chooses to proceed under section ~~11(b)(3)~~ **11(3) or 20(b)(2)** of this chapter, the department and the applicant shall jointly:

- (1) select a consultant that has the appropriate background to review the applicant's application; and
- (2) authorize the consultant to begin work;

not later than fifteen (15) working days after the department receives notice that the applicant has chosen to proceed under section ~~11(b)(3)~~ **11(3) or 20(b)(2)** of this chapter.

(b) The commissioner may:

- (1) consult with the applicant regarding the advisability of proceeding under this section; and
- (2) document the communications.

SECTION 6. IC 13-15-4-16, AS AMENDED BY P.L.184-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If an applicant chooses to proceed under section ~~11(b)(2)~~ **11(2)** or ~~11(b)(3)~~ **11(3)** of this chapter, the applicant or a consultant shall prepare and submit to the commissioner the draft permit and any required supporting technical justification for the permit not later than thirty-five (35) working days after:

- (1) the applicant has notified the commissioner that the applicant has chosen to proceed under section ~~11(b)(2)~~ **11(2)** of this chapter; or
- (2) the department and the applicant have authorized a consultant to begin work under section ~~11(b)(3)~~ **11(3)** of this chapter.

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(b) Subject to subsection (c), the commissioner shall:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than twenty-five (25) working days after receiving the draft permit.

(c) If notice of opportunity for public comment or public hearing is required under applicable law before a permit decision can be issued, the commissioner shall comply with all public participation requirements and:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than fifty-five (55) working days after receipt of the draft permit.

(d) If the commissioner denies the draft permit, the commissioner shall specify the reasons for the denial.

(e) If an applicant has elected to have a draft permit prepared under section ~~11(b)(3)~~ **11(3)** of this chapter and:

(1) the consultant fails to submit a draft permit and supporting technical justification to the commissioner; or

(2) the commissioner fails to approve or deny the draft permit; within the applicable time specified under subsection (a), (b), or (c), the department shall refund the applicant's permit application fee not later than twenty-five (25) working days after expiration of the applicable period.

(f) The commissioner and the applicant may mutually agree to extend the deadlines in this section.

SECTION 7. IC 13-15-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) If an applicant is operating under a continuation of an existing permit pending determination of an application for a new or renewed permit under IC 13-15-3-6, the applicant may proceed under this section after notifying the commissioner in writing of its intent to do so.**

(b) After reaching an agreement with the commissioner or after consulting with the commissioner for at least thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:



(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with subsection (c).

(2) The:

(A) applicant may hire an outside consultant as provided in section 15 of this chapter to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft permit in accordance with subsection (c).

(c) If an applicant chooses to proceed under subsection (b)(1) or (b)(2), the applicant or a consultant shall prepare and submit to the commissioner the draft permit and any required supporting technical justification for the permit not later than thirty-five (35) working days after:

(1) the applicant has notified the commissioner that the applicant has chosen to proceed under subsection (b)(1); or

(2) the department and the applicant have authorized a consultant to begin work under subsection (b)(2).

(d) Subject to subsection (e), the commissioner shall:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than sixty (60) working days after receiving the draft permit.

(e) If notice of opportunity for public comment or public hearing is required under applicable law before a permit decision can be issued, the commissioner shall comply with all public participation requirements and:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than ninety (90) working days after receipt of the draft permit.

(f) If the commissioner denies the draft permit, the commissioner shall specify the reasons for the denial.

(g) The commissioner and the applicant may agree to extend the deadlines in this section.

SECTION 8. An emergency is declared for this act.

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